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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,250	09/22/2003	Junichi Matsumoto	242958US2	9520
22850	7590	08/17/2006	EXAMINER	
<b>C. IRVIN MCCLELLAND</b> OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				GLEITZ, RYAN M
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/666,250	MATSUMOTO ET AL.
	<b>Examiner</b>	Art Unit
	Ryan Gleitz	2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 May 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1 and 3-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1 and 3-16 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 22 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date 2/3/06; 8/7/06  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, and 8-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Welch et al. (US 6,311,745).

Welch et al. disclose in figure 1 powder storing body (12), a base member (22) affixed to the opening of the powder storing body (12), and an outlet member (24), which is formed with a passage configured to deliver the powder from the powder storing body (12) to an outlet of the body member and has a shutter (60), as shown in figure 5, the outlet member (24) being selectively connectable to the base member (22) through fastener (40). Col. 4, line 3. It is also noted that in addition to the unitary construction shown in figure 1, the container may be formed of separate sections. Col. 3, lines 54-58.

The base member (22) includes a powder passage, and the powder passage has an opening area larger than an opening area of the passage of the outlet member (24) adjacent the shutter (60). See figure 1.

The shutter, as shown in figure 5, is cylindrical and is removably fitted in a transverse cylindrical shutter hole of the outlet member (24).

Regarding claim 3, an opening area of the powder passage of the base member (22) decreases from the opening of the powder storing body (12) toward the outlet member (24).

Regarding claims 5 and 11, the powder storing body (12) is formed of a flexible material.

Col. 4, lines 12-17, col. 7, line 46.

Regarding claims 8 and 9, the dispensing system of Welch et al. also reads on a cartridge and a refillable toner cartridge.

Regarding claim 12, the outlet member (24) has a first part selectively connectable to the base member (22) through fastener (40) and a second part (no reference numeral assigned; see figure 1, the part between the shutter 60 and member 24 that is fit inside member 24) fittable in the first part at including the shutter (60). Alternatively, even the embodiment shown in figure 4 includes a second part fittable in the first part, especially if container (18) and/or shutter (60) is rotated to fit inside the opening of outlet (38).

Regarding claims 13-16, the base member (22) includes a powder passage, and the powder passage has an opening area larger than an opening area of the passage of the outlet member (24) adjacent the shutter (60), at a side of the shutter (60 toward an outlet of the base member. See figure 1.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (US 6,311,745) in view of Terazara et al. (US 2001/0017998).

Welch et al. disclose the apparatus above, but do not disclose a rectangular base member or the details of how the powder storing body is foldable. It should be noted that Welch et al. note that a variety of containers can be utilized. See col. 4, lines 12-17.

However, Terazawa et al. disclose a <sup>powder</sup> storing body (1) in figure 1, including a rectangular base member (7) including a pair of side surfaces. The powder storing body (1) includes sheets formed of a fold foldable inward, as shown by figure 1. See [0054]. The side surfaces are inclined and an angle between the inner surfaces and a horizontal place must be greater than an angle of repose of the powder because otherwise the toner would not fall into the image forming apparatus. Instead it would clump on the side of the container. Additionally, in the state shown in figure 3, the angle of the inner surface must be greater than the angle of repose of the powder because it is shown to be nearly vertical.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the powder toner container of Welch et al. with the foldable bag taught by Terazawa et al. to be easy to transport while occupying a minimum of space, which reduces cost. See [0079].

***Response to Arguments***

Applicant's arguments filed 30 May 2006 ("Response") have been fully considered but they are not persuasive.

Regarding claim 12, Applicant submits that figure 4 does not show a second part fittable in the first part because the parts are simply secured in some fashion. Response, p. 10. However, the apparatus shown in figure 1 appears to include a fastener secured inside the wall of lower section (24). Even if this cannot be determined from figure 1, it is still true that both figures 1 and 3 include a second part fittable inside the first part. The reference need not show the device assembled such that the second part is fit inside the other. Instead, the second part must merely be capable of being fittable in the first part. For example, it is clear from the figures that container (18) and/or shutter (60) could be rotated to fit inside the opening of outlet (38).

Regarding newly amended claims 1, 8-10, 13-16, Applicant submits that the shutter of Welch et al. is a pivotable disk and cannot be a cylindrical member removably fittable in a transverse cylindrical shutter hole. However, disks are cylinders, and the disk shown by Welch et al. is a cylinder capable of being both removable and fittable.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

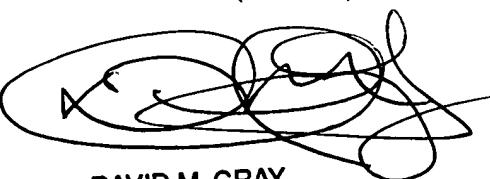
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rg



DAVID M. GRAY  
SUPERVISORY PATENT EXAMINER